

RICHARD ELLO,

STIPULATION AND ORDER

Plaintiff,

05 CV 9625 (KMK)

v.

(ECF Case)

ISHRY SINGH, et al.,

Defendants.

x

WHEREAS, on July 13, 2006, Plaintiff Richard Ello ("Plaintiff") filed, via ECF, a motion to amend Plaintiff's First Amended Complaint (the "First Motion to Amend"), attaching: (1) a Proposed Summons; (2) a Declaration of Ruth M. Pollack, Esq. dated July 12, 2006; and (3) a Proposed Second Amended Complaint with Exhibits A through F appended thereto, which were collectively assigned Document No. 37;

WHEREAS, by Order dated July 13, 2006, the Court denied Plaintiff's First Motion to Amend for its failure to comply with the Court's individual practices and the Local Rules of the Southern District of New York;

WHEREAS, by letter dated August 30, 2006 and at a conference before the Court on September 12, 2006, Plaintiff, through his counsel, agreed to expunge from the record of the above-captioned case the First Motion to Amend and all related documents and filings, including, but not limited to, the Proposed Second Amended Complaint and all exhibits appended thereto, all of which appear on the docket as Document No. 37;

WHEREAS, at the September 12 conference, the Court set a briefing schedule for Plaintiff's renewed motion to amend, whereby: (1) Plaintiff shall serve, by September 15, 2006, a motion to amend Plaintiff's Summons and First Amended Complaint, which shall attach as an

exhibit a Proposed First Amended Summons and Second Amended Complaint; (2) Defendants shall serve their opposition to that motion by October 16, 2006; and (3) Plaintiff shall serve any reply by October 30, 2006. Service of all submissions will be effective upon receipt of the submission by the opposing party and not on the date of mailing and service may be by facsimile;

WHEREAS, at the September 12 conference, Defendants' respective counsel asserted that Plaintiff's revised Proposed Second Amended Complaint may contain allegations, which are highly sensitive and thus may be the subject of an application to seal;

WHEREAS, at the September 12 conference, the Court directed that the parties' submissions in connection with Plaintiff's motion to amend (the "Submissions") be served on each other, with courtesy copies delivered to the Court simultaneously, but not filed with the Court via ECF or otherwise, until such time as the Court rules on Plaintiff's motion to amend;

NOW THEREFORE, the parties, through their undersigned counsel, stipulate as follows:

1. Plaintiff's First Motion to Amend, including the Proposed Second Amended Complaint itself and all exhibits appended thereto, which appear as Document No. 37 on the docket for the above-captioned case, shall be expunged from this Court's record by removing them from ECF and by returning to Plaintiff's counsel any copies of Document No. 37 that may be found in the Court's file.

2. Pending the Court's determination as to whether the Submissions shall be filed, the parties and their undersigned counsel agree that they shall not disclose either the Submissions or the subject-matter of the Submissions to any person other than (i) the parties, including the parties named in the Proposed Second Amended Complaint (and including those of their employees with information necessary to the prosecution and/or defense of the motion and any

insurers of the parties); (ii) their counsel of record in this action (including any support personnel), and (iii) to law enforcement and judicial authorities.

PROSKAUER ROSE LLP

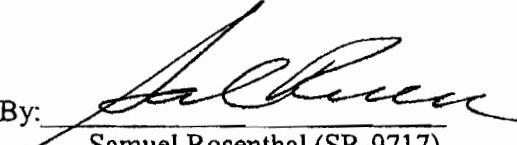
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RUTH M. POLLACK, ESQ.

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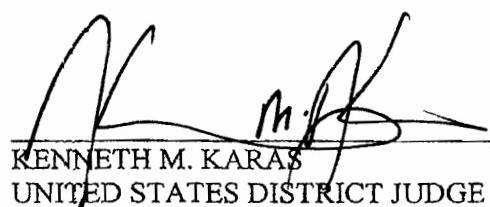


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SO ORDERED

*October 10*

Dated: September, 2006  
New York, New York

  
KENNETH M. KARAS  
UNITED STATES DISTRICT JUDGE